IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10174 OF 2004

Shraddha Veneers Private Limited .. Petitioner

V/s

State of Maharashtra & Ors. .. Respondents

Mr.Y.S. Jahagirdar, Senior Counsel, with Mr.K.S. Dewal for the Petitioner.

Mrs. Jyoti Pawar, A.G.P. for the Respondents.

CORAM : H.L. GOKHALE &
MRS. R.S. DALVI, JJ.

DATE : 6TH JULY 2005

P.C. :

1. Heard Mr.Jahagirdar for the Petitioner and Mrs.Pawar, A.G.P. for the Respondents.

2. The petition seeks to challenge the order dated 8th November 2004 passed by the Range Forest Officer, Thane directing that the plywood business, which the Petitioner was carrying out at Rabale, should be closed. The order also directed that three unlicensed saw machines, which the Petitioner was running in that business, should be closed immediately.

3. Mr.Jahagirdar, learned Senior Counsel appearing

for the Petitioner, submitted that the relevant Rule 88 of the Bombay Forest Rules, 1942 prohibits conversion of timber provided it is done within certain distance of forest. His submission was that the Petitioner is not converting timber into any other items. The Petitioner was buying veneer and wooden blocks from elsewhere and converting them into block boards and flush doors as per the specifications. His submission is that if at all any action is required, it should be against those suppliers or manufacturers. The activities of the Petitioner could not be construed as hit by this Rule. Now, what we have to note is that similar activities led to a criticism by the Apex Court in an order passed in **T.N. Godavarman v. Union of India reported in (1997) 3 SCC 312**. The Apex Court directed that all unlicensed saw mills, veneer and plywood industries in State of Maharashtra and Uttar Pradesh are to be closed down forthwith. The relevant paragraph of that order which is paragraph 6 reads as follows:-

> "6. All unlicensed saw mills, veneer and plywood industries in the State of Maharashtra and the State of Uttar Pradesh are to be closed forthwith and the State Government would not remove or relax the condition for grant of

> permission / licence for the opening of any such saw mill, veneer and plywood industry and it shall also not grant any fresh permission / licence for this purpose. The Chief Secretary of the State will ensure strict compliance of this direction and file a compliance report within two weeks."

The parties, which were placed similar to the Petitioner, felt aggrieved and interim applications were moved before the Apex Court. In an order which was passed on 14th July 2003 on a group of interim applications, and particular Interim Application No.807, it is seen that the Apex Court accepted the recommendations of the Central Empowered Committee dated 27th December 2002. The State of Maharashtra was directed accordingly to abide by the aforesaid recommendations. Mr.Jahagirdar drew our attention to those recommendations. When we see those recommendations, what we find is that the Committee recommended grant of licence to ancillary units using band saws upto 18 inches and circular saws upto 12 inches. The Committee also recorded that on the aforesaid recommendations the State Government had decided to replace the explanation to Rule 88(10). What

we find is that the recommendation is now finally incorporated into Sub-rule (10) which reads as follows:-

> "(10) Nothing contained in this rule, including any directions issued by the State Government under sub-rule (11) of this rule, shall apply to the ordinary operation of domestic carpentry or to the other similar work on a small scale.
>
> Explanation:- For the purposes of this rule, the expression "other similar works on a small scale" shall mean and include carpentry units, which are not primary consumers of wood and which do not consume any fresh material for primary sawing but undertake only re-sawing operations of carpentry works for making small wooden articles such as photo-frames, boxes, etc. taken up as vocation in the form of cottage industry or a small scale industry, using a circular saw of diameter 12" or below for the purpose of such carpentry works, but shall not include other small scale units involved in saw mill operations taken up on commercial basis as a small scale industry."

4. When we see this Sub-rule (10), it carves out an exception and it provides that nothing contained in the rule will apply to the ordinary operation of domestic carpentry or to other similar work on a small scale. The explanation provides that it will apply for manufacture of wooden articles such as photo-frames, boxes, etc. and later on it specifically excludes from it the small scale units involved in saw mill operations taken up on commercial basis as a small scale industry. Mr.Jahagirdar submitted that this Sub-rule (10) is beneficial to the Petitioner as well. Now, what is seen is that the Petitioner does not manufacture photo-frames or boxes, but is undoubtedly engaged in commercial activities of converting veneer and wooden blocks into block boards and flush doors. Mr.Jahagirdar relied upon a recent communication of the Chief Conservator of Forest dated 13th April 2005 wherein he has made certain observations but has sought a final decision of the State Government. Any such observations, if they are contrary to the Rule, cannot benefit the Petitioner.

5. Mrs.Pawar, learned A.G.P. appearing for the Respondents, drew our attention to the recommendations of the Central Empowered Committee dated 27th December

2002 once again to emphasise their import.

6. What emerges from the above is that the ban imposed by the Apex Court in its judgment in the case of P.N. Godavarman referred to above continues as of now. In the subsequent order passed by the Apex Court, certain relaxations were provided which had to be on the basis of the recommendations of the Central Empowered Committee. Now, the State Government has amended the Rule, but, as stated above, Sub-Rule (10) is available only to certain exempted categories wherein undoubtedly the commercial activities do not fall.

7. In the circumstances, we do not find any error in the order passed by the Range Forest Officer. Petition is dismissed.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)